

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

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IN RE: NATIONAL ARBITRATION  
FORUM TRADE PRACTICES LITIGATION

MDL No. 10-2122 (PAM-JSM)

Robert Townsend v. National Arbitration  
Forum, Inc., et al.  
C.D. California, C.A. No. 2:09-9325

THIS DOCUMENT RELATES TO:  
ALL ACTIONS

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**REPLY MEMORANDUM OF POINTS AND AUTHORITIES IN FURTHER  
SUPPORT OF DEFENDANTS NATIONAL ARBITRATION FORUM, INC.,  
NATIONAL ARBITRATION FORUM, LLC, DISPUTE MANAGEMENT  
SERVICES, LLC D/B/A FORTHRIGHT, AND MICHAEL KELLY'S  
MOTION TO DISMISS**

Plaintiff Robert Townsend admits that he never arbitrated a claim before Defendants National Arbitration Forum, Inc., National Arbitration Forum, LLC, and Dispute Management Services, LLC d/b/a Forthright (the "NAF Defendants"). (Pl's Mem. Opp. Bank of Am.'s Mot. Dismiss 4 (Doc. 157 in C.D. Cal., C.A. No. 2:09-9325).) He admits that the NAF Defendants did not send any of the messages he now claims are deceptive. (Pl's Mem. Opp. NAF Mot. Dismiss 3 (Doc. 161 in C.D. Cal., C.A. No. 2:09-9325) ("Pl's Mem.")) And he admits that only three paragraphs pertain to Defendant Michael Kelly's actions, (Pl's Mem. 3), two of which merely describe Mr. Kelly's position and one which states only legal conclusions without describing any actions he

supposedly took. In Plaintiff's fourth chance to state a claim, he cannot marshal a single contact between himself and the NAF Defendants or Mr. Kelly prior to this lawsuit.

Further, Plaintiff erroneously states that the NAF Defendants "sneak in another whopper" by arguing that the Federal Fair Debt Collections Practices Act ("FDCPA") claim must be dismissed because he does not have actual damages. (Pl's Mem. 3.) In truth, the FDCPA claim was his Second cause of action, and the NAF Defendants properly said lack of damages is fatal to his "First, Third, Fourth, Fifth, Sixth, Seventh, Eighth, and Ninth causes of action." (NAF Def.'s Mem. Supp. Mot. Dismiss 3-4 n.1 (Doc. 148-1 in C.D. Cal., C.A. No. 2:09-9325) ("NAF Mem.")). Plaintiff's FDCPA claim fails because he lacks standing and because he alleges no facts plausibly suggesting the NAF Defendants or Mr. Kelly are "debt collectors" under that statute or made any representation whatsoever to him. (NAF Mem. 9-10.) The remaining claims fail for lack of damages in addition to lack of standing and failure to plausibly allege their elements.

For the foregoing reasons, in addition to those described by the other Defendants and in the NAF Defendants' and Michael Kelly's opening memorandum in support of this motion, the Court should dismiss Plaintiff's Third Amended Complaint with prejudice.

DORSEY & WHITNEY LLP

Dated: June 7, 2010

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